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January 25, 2006

The Honorable Kent A. Jordan  
United States District Court  
844 King Street  
Wilmington, DE 19801

**Re: Wayne Van Scoy v. Kurt Van Scoy, et al.**  
**C.A. No. 05-108-KAJ**

Dear Judge Jordan:

Yesterday, at the close of the oral arguments respecting the summary judgment motions filed by both sides in this action, I erred in answering the Court's question as to when defendant Kurt Van Scoy first became aware of the existence of the United States trademark registrations for the mark at issue.

While I do not yet have a copy of the transcript from yesterday, I believe in answering the Court's question I stated that it was in January 2001. This, of course, was an error; January of 2001 is the date the plaintiff, Mr. Wayne Van Scoy, contends that he acquired ownership of the federal registrations for the mark at issue.

Defendant Kurt Van Scoy has consistently testified that he was unaware of any federal registration or other trademark rights respecting the mark at issue, namely "VAN SCOY DIAMOND MINE", until receiving the plaintiff's 18 November 2004 notice letter. Accordingly, I should have answered the Court's question as "18 November 2004 or a few days after."

I have attached to this letter copies of pages 13, 14, 48, 130 and 137 of Mr. Van Scoy's deposition and page 12 of a FRCP 30(b)(6) deposition of the corporate defendant Van Scoy Diamond of Delaware, Inc. for which Mr. Kurt Van Scoy was the spokesman. From the deposition pages the Court will see that Kurt Van Scoy testified repeatedly that he was unaware of any federal regulations or other trademark rights respecting the mark at issue until receiving the 18 November 2004 notice letter from plaintiff's counsel.

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I sincerely regret my misstatement and any inconvenience it may have caused to the Court or to the plaintiff.

Respectfully submitted,

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By:



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